

FEB 08 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DONALD H. ANDERSON,

Defendant - Appellant.

No. 05-30062

D.C. No. CR-04-00033-SEH

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted January 9, 2006^{**}
Portland, Oregon

Before: KLEINFELD and GRABER, Circuit Judges, and RAFEEDIE,^{***} District
Judge.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

^{***} The Honorable Edward Rafeedie, Senior United States District Judge for the Central District of California, sitting by designation.

Defendant Donald H. Anderson appeals the sentence imposed following his conviction, upon a guilty plea, of conspiracy to manufacture methamphetamine in violation of 21 U.S.C. §§ 841 and 846. We vacate and remand.

Defendant objected to the accuracy of certain paragraphs in the presentence report. The district court did not make express findings, under Federal Rule of Criminal Procedure 32(i)(3)(B), to resolve the disputed facts. The district court's general findings that it "accept[ed]" the findings contained in the presentence report and that a specified quantity of pure pseudoephedrine was involved in the conspiracy do not suffice to respond to the objections with particularity or to explain why the district court found that the "orange sludge" was attributable to Defendant. Accordingly, we must vacate the sentence and remand the matter. See United States v. Carter, 219 F.3d 863 (9th Cir. 2000) (requiring explicit factual findings to resolve each disputed factual statement in a presentence report, and vacating and remanding where such resolution was absent); United States v. Standard, 207 F.3d 1136 (9th Cir. 2000) (rejecting sufficiency of catch-all provision in findings of fact, and vacating and remanding sentence).

Because of our disposition of the appeal, we need not and do not reach Defendant's argument concerning the reasonableness of the sentence ultimately imposed. See United States v. Booker, 543 U.S. 220 (2005) (holding that the

Sentencing Guidelines are advisory only, and requiring review for reasonableness of sentence).

VACATED AND REMANDED.